

REMARKS

This Application has been carefully reviewed in light of the Final Office Action mailed December 6, 2007. At the time of the Final Office Action, Claims 11-17, 19, and 20 were pending in this Application. Claims 11-17, 19, and 20 were rejected. Claims 11 and 19 have been amended to further define various features of Applicant's invention. Claims 16 and 17 have been cancelled without prejudice or disclaimer. Claim 18 was previously canceled and Claims 1-10 were previously withdrawn due to an election/restriction requirement. Applicant respectfully requests reconsideration and favorable action in this case.

Rejections under 35 U.S.C. § 112

Claims 11-17, 19, and 20 were rejected by the Examiner under 35 U.S.C. §112, second paragraph, as being indefinite and failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Applicants amend Claims 11 and 19 to overcome these rejections and respectfully request full allowance of Claims 11-15; 19 and 20 as amended.

Rejections under 35 U.S.C. § 102

Claims 11, 14-17, and 20 were rejected by the Examiner under 35 U.S.C. §102(b) as being anticipated by "Aerosolization of Epiderman Cells with Fibrin Glue for the Epithelialization of Porcine Wounds with Unfavorable Topography," *Plastic Surgery and the Cryopreservation Laboratory*, by Meir Cohen et al. ("Cohen"). Applicants respectfully traverse and submit the cited art does not teach all of the elements of the claimed embodiment of the invention.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir.

1987). Furthermore, "the identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co. Ltd.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). Applicant respectfully submits that the art cited as anticipatory by the Examiner cannot anticipate the rejected Claims, because the cited art does not show all the elements of the present Claims.

Rejections under 35 U.S.C. §103

Claims 11-17, 19, and 20 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,479,052 issued to Julian M. Marshall et al. ("Marshall"). Applicants respectfully traverse and submit that Marshall does not render Claims 11-17, 19, and 20 obvious.

In order to establish a *prima facie* case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Furthermore, according to § 2143 of the Manual of Patent Examining Procedure, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

Request for Continued Examination (RCE)

Applicant respectfully submits a Request for Continued Examination (RCE) Transmittal. The Commissioner is authorized to charge the RCE fee of \$405.00, and any additional fees required to Deposit Account 50-2148, in order to effectuate this filing.

CONCLUSION

Applicant has now made an earnest effort to place this case in condition for allowance in light of the amendments and remarks set forth above. Applicant respectfully requests reconsideration of Claims 11-15; 19 and 20 as amended.

Applicant believes there are no fees due at this time, however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicant's attorney at 512.322.2606.

Respectfully submitted,
BAKER BOTTS L.L.P.
Attorney for Applicant


Bruce W. Slayden
Reg. No. 33,790

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SEND CORRESPONDENCE TO:
BAKER BOTTS L.L.P.
CUSTOMER ACCOUNT NO. **31625**
512.322.2606
512.322.8383 (fax)